

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

PLYMOUTH INDUSTRIES, LLC,
a Nebraska Limited Liability Company,

Plaintiff,

vs.

SIOUX STEEL COMPANY,
a South Dakota Corporation,

Defendant.

CIVIL ACTION NO. _____

COMPLAINT

For its Complaint, Plaintiff, Plymouth Industries, LLC (hereinafter "Plymouth"),
hereby alleges:

THE PARTIES

1. Plaintiff, Plymouth Industries, LLC, is a limited liability company organized and existing under the laws of the state of Nebraska, with its principal place of business located at 615 East Main, Plymouth, Nebraska 68424

2. Upon information and belief, Defendant, Sioux Steel Company, is a corporation existing under the laws of the state of South Dakota, having a principal place of business at 196½ East 6th Street, Sioux Falls, South Dakota 57101.

JURISDICTION AND VENUE

3. This is an action for patent infringement arising under the patent laws of the United States, 35 U.S.C. § 1, *et seq.*

4. This Court has jurisdiction under 28 U.S.C. § 1338(a).

5. Venue is proper in this District under the provisions of 28 U.S.C. §§ 1391(c) and 1400.

COUNT I
(Patent Infringement)

6. Plaintiff is the owner of United States Patent No. 6,672,247 (hereinafter the "'247 patent") issued January 6, 2004, entitled "HAY SAVER INSERT". A copy of the '247 patent is attached hereto as Exhibit A.

7. Defendant is making, using, selling and offering for sale inserts covered by said '247 patent in the state of Nebraska within this Judicial District, and throughout the United States, and by so doing is infringing one or more claims of the '247 patent.

8. Defendant's activities with respect to the infringement of the '247 patent have been without the express or implied license of the Plaintiff.

9. Defendant has willfully infringed the '247 patent within the United States by making, using, selling and offering for sale inserts within the state of Nebraska and within this judicial district.

10. Plaintiff has been and will be damaged by the foregoing infringing activities of Defendant in an amount which cannot be accurately determined at this time.

COUNT II
(Patent Infringement)

11. Plaintiff is the owner of United States Patent No. 6,789,505 (hereinafter the "'505 patent") issued September 14, 2004, entitled "HAY SAVER INSERT". A copy of the '505 patent is attached hereto as Exhibit B.

12. Defendant is making, using, selling and offering for sale inserts covered by said '505 patent in the state of Nebraska within this Judicial District, and throughout the United States, and by so doing is infringing one or more claims of the '505 patent.

13. Defendant's activities with respect to the infringement of the '505 patent have been without the express or implied license of the Plaintiff.

14. Defendant has willfully infringed the '505 patent within the United States by making, using, selling and offering for sale inserts within the state of Nebraska and within this judicial district.

15. Plaintiff has been and will be damaged by the foregoing infringing activities of Defendant in an amount which cannot be accurately determined at this time.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff requests the following relief:

A. Judgment that Defendant has willfully infringed U.S. Patent Nos. 6,672,247 and 6,789,505 and that the '247 and '505 patents are valid and enforceable at law.

B. Judgment that Defendant is permanently enjoined from such patent infringement whether by direct or contributory infringement or by inducement to infringe.

C. That judgment be entered awarding Plaintiff its damages adequate to compensate for Defendant's infringement, but in no less than a reasonable royalty for the use made of the inventions by Defendant, together with interest and costs as fixed by the Court, as provided in 35 U.S.C. § 284.

D. That the damages be increased up to three times the amount found or assessed as provided in 35 U.S.C. § 284.

E. That Defendant be ordered to pay Plaintiff the costs of this action and attorneys' fees as provided by 35 U.S.C. § 285.

F. Such other and further relief as this Court and/or jury may deem proper.

PLAINTIFF REQUESTS A TRIAL BY JURY IN OMAHA, NEBRASKA, ON ALL ISSUES SO TRIABLE.

DATED this 2nd day of May, 2005.

PLYMOUTH INDUSTRIES, LLC, a Nebraska
Limited Liability Company, Plaintiff,

By s/Dennis L. Thomte

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